



The Attorney General of Texas

March 24, 1983

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Affirmative Action Employer

Mr. Bob E. Bradley
Executive Director
Texas State Board of Public
Accountancy
3301 Northland Drive, Suite 500
Austin, Texas 78731

Open Records Decision No. 367

Re: Availability under the
Open Records Act of agenda
book pages dealing with pro-
posed legislation and with
litigation

Dear Mr. Bradley:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to the availability of certain information from the agenda book of the Texas State Board of Public Accountancy.

The requestor seeks particular items from the agenda books of a number of prior meetings of the board. The requested items consist of reports made by the executive committee to the board for use during its meetings and various attachments to those reports. You state that you have furnished to the requestor most of the requested information but have declined to produce the following:

1. Four pages relating to executive committee recommendations for possible amendments to the Public Accountancy Act, article 41a-1, V.T.C.S.;

2. One page relating to the board's discussion of proposed litigation against a business entity, together with letters from the board's executive director and its counsel relating to that litigation; and

3. Information relating to the application for certification of a particular individual.

You contend that the first series of items are excepted from disclosure by section 3(a)(6) of the Open Records Act, as:

drafts and working papers involved in the preparation of proposed legislation.

This office has only rarely construed section 3(a)(6). See Open Records Decision Nos. 344 (1982); 248 (1980); 197 (1978); 140 (1976). In Open Records Decision No. 248, however, it was held that drafts of a municipal ordinance and resolution which reflect policy judgments, recommendations and proposals are excepted by section 3(a)(6). Factual information is not excepted thereby. Open Records Decision No. 344 (1982). Three of the four pages at issue here relate to comments by the executive committee regarding the manner in which portions of article 41a-1 might be amended. The fourth page contains a recommendation for amendment by the executive committee. In our opinion, this information is precisely the type which this office has held to be excepted by section 3(a)(6). Accordingly, we conclude that the four items in the first request may be withheld under section 3(a)(6).

The second series of items, you suggest, are excepted by section 3(a)(3), as "information relating to litigation." These documents contain information relating to a declaratory judgment action pending against the board. The attorney who represents the board has determined that the documents relate to the litigation and that they should be withheld at this time. In our opinion, this determination is reasonable. See Open Records Decision Nos. 323 (1982); 143 (1976). As a result, the items in the second request are excepted by section 3(a)(3).

You contend that the third series of documents are excepted by section 3(a)(1), as "information made confidential by law," specifically, section 25 of article 41a-1, which provides:

Any file maintained or information gathered or received by the board concerning a candidate, licensee, or former licensee shall be available for inspection by that candidate, licensee, or former licensee during normal business hours at the offices of the board in Austin. A candidate, licensee, or former licensee may by written communication authorize the board to make any information about that candidate, licensee, or former licensee available for inspection by designated persons or available for inspection by the public at large. Except upon such written authorization, all information received or gathered by the board concerning the qualifications of any licensee or candidate to register as a public accountant or to receive a certificate as a certified public accountant and all information received or gathered by the board concerning a disciplinary proceeding against a licensee under Section 22 of this Act prior to a

public hearing on the matter shall be confidential and shall not be subject to disclosure under Chapter 424, Acts of the 63rd Legislature, 1973, as amended (Article 6252-17a, V.T.C.S.).

The documents in the third request relate to the application for certification by the board of a particular individual, including scholastic records, examination scores, work experience, and several memoranda commenting on the applicant's eligibility. In our opinion, all these items constitute "information received or gathered by the board concerning the qualifications of any licensee or candidate to register as a public accountant." Accordingly, they are excepted from disclosure by section 3(a)(1) of the Open Records Act and section 25 of article 41a-1.

Very truly yours

A handwritten signature in black ink that reads "Jim Mattox". The signature is written in a cursive, flowing style with a large initial "J".

J I M M A T T O X
Attorney General of Texas

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APPROVED:
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